



Licensing Board

July 27, 2009 - 7:00 p.m. – **Agenda**
133 William Street, Room 314

View Minutes

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PRESENT: Steven A. Beauregard, Chairman
Ronald E. Frenette, Commissioner
Atty. John Markey, Assistant City Solicitor
Capt. Steven Vicente, Liaison to the Licensing Board
Nick Nanopoulos, Director

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change of Description & Manager - Trans. # 105 – (Plot # 47--219)

New England Fisheries, LLC d/b/a Waterfront Grille, Kevin Santos, Manager of LLC, 36 Homer's Wharf, who is requesting permission to **Change the Description** of the **Common Victualler All Alcoholic Beverages** licensed premises; also, a Change of Manager is being requested approving **Madeline Rioux**, who resides at **43 Arlington Avenue, Westport, MA.**, as **their new Manager**. Upon completion of renovations the description shall read as follows,: Licensed premises consists of a total area of 8,900 sq. ft. on the first floor of a two-story building, which includes three (3) dining rooms, bar area, reception area, office, kitchen and storage area, and two (2) handicap accessible restrooms with an additional sushi dining room with a bar area and two (2) restrooms; also included on the first floor level is an exterior deck area, approx. 624 sq. ft. ,for outside dining on the east side of the building, which is contiguous to the main dining room, and an outside dining patio area with a seasonal bar, approx. 806 sq. ft. for dining on the south side of the building, which is also contiguous to the main dining area, which is enclosed with an entrance/exit into the main dining area with an exit into the parking lot. There is also an area, approx. 1,900 sq. ft. on the second floor of the two-story building, which includes a function/dining room with two restrooms, which also includes an upper outside deck area, approx. 216 sq. ft. for dining on the east side of the building; there is also an upper outside deck with a seasonal bar, approx. 806 sq. ft. for dining on the south side of the building, with a stairway to the lower outside deck. There are three (3) entrances/exits into the premises, which includes one into the main dining area, and one into the sushi dining room, and one into the outside patio area, which both have contiguous entrances and exits into the main dining area; and there are also two additional exits through the kitchen and the storage area. Premises is situated on the south side of Homer's Wharf, between Front Street and the Acushnet River, and **numbered 36 Homer's Wharf**.

Final approval will require a 'Certificate of Inspection' from the Building Department, a 'Food Permit' from the Health Department, and a signed 'Fire & Building Certificate' with regard to **Chapter 304 Fire Acts Compliance**.

Approved By ABCC – 07/02/09

DISAPPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change of Manager - Trans. # 202 – (Plot # 92--267)

Veterans of Foreign Wars of the United States, Inc. (Andrew Dahill Post #1531), 477 Park Street, who is requesting the approval of **Patrick M. Flinn**, who resides at **29 Seventh Street, New Bedford, MA**, as **their new Manager**.

2nd Attempt - Disapproved By ABCC – 07/09/09 - Failure to Comply With Mass Tax Laws (DUA)

To Be Sent Back To ABCC "For Reconsideration" ONLY upon notification from Applicant or DOR to re-submit

Pledge of License - Tr. #120 – (Plot # 53--35) Late File

Times Square Restaurant, Inc. d/b/a Bar 908, Joseph A. Kern, Clerk requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License** to Roberta D. Kern, **30 Star Avenue, East Providence, R.I.** as security to authorize and execute a promissory note for \$109,186.00 and security agreement pledging all accounts, equipment, general intangibles, inventory, liquor licenses now owned or hereafter acquired by the corporation, pursuant to Massachusetts General Laws Ch.138 s.23. (*Originally Sent Up 12/19/05*)

6th Attempt - Disapproved By ABCC – 07/23/09 - Failure to Comply With Mass Tax Laws (DUA)

To Be Sent Back To ABCC “For Reconsideration” ONLY upon notification from Applicant or DOR to re-submit

1. APPLICATION,

Joseph P. Ribeiro, who resides at 924 Thorndike Street, N.B., MA, who is requesting approval of his application for a **Motor Vehicle Class II (Used Car Dealer) License for Station 7 Motors, Inc.** with premises situated at **54 Mt. Pleasant Street**, with certain repairs to be done on the premises.

Note: Site is currently licensed to Aruajo Auto Sales, Inc., which is approved for Thirty (30) autos for display, who will be required to surrender his license prior to issuance of the new license.

Approval of the Motor Vehicle Class II License will require a **‘Change of Tenant’** from the **Office of Inspectional Services**, a **\$25,000.00 Bond**, and a **Notarized Letter** stating where repairs will be done.

Tabled at 06/29/09 Meeting

2. Hearing: Elm N.B., LLC d/b/a Elm 22

Everett Douglas Mills, Manager

22 Elm Street

Approved By ABCC – 03/12/08 - Prior Hearings – 2008 (2)

Your presence is respectfully requested at a hearing to determine the status of your annual liquor license for the year 2009. Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77...Cancellation of license upon cessation of licensed business.

Hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2009 prior to this Board considering approval of your 2010 renewal application.

You **must submit** to the Board that evening, a letter stating your intentions regarding the license that has been issued to you detailing an opening date, plans to transfer, or change of location, as it applies to your situation.

Minutes of 06/29/09 Meeting

Rec’d 06/24/09 – A request behalf of his client for a continuance of the hearing scheduled for 06/29/09 to allow Mr. Mills an opportunity to personally address the Board on the status of his license, since he will be out of state on business and will not return until later in the week.

Voted: To receive and place on file the written request to continue the hearing until the Board’s next meeting (07/27/09); and to approve the request and table the matter to the Board’s next meeting. – **Unanimous**

3. APPLICATION, “Representation Required”

Portuguese Sports Club, Inc., Jose Calheta, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Scholarship Fund Benefit/Bike Run’ to be held at the ‘Club – Parking Lot’, located at **56 Delano Street**; and to be held on **Saturday, August 29, 2009, from 2:00 p.m. until 11:00 p.m.**

4. APPLICATION, “Representation Required”

Andrew – Dahill post #1531, Veterans of Foreign Wars of the U.S., Inc., James T. Wagner, Manager, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Member Family Cookout’ to be held in the **Club Parking Lot**, located at **477 Park Street**; and to be held on **Saturday, August 8, 2009, from 1:00 p.m. until 6:00 p.m.**

5. APPLICATION, “Representation Required” – Late File

E & M Corp. d/b/a On The Rocks Lounge, Michael Medeiros, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘F107 Promotion/Outdoor Barbeque’ to be held their adjacent ‘Parking Lot’, located at **1686 Acushnet Avenue**; and to be held on **Sunday, August 30, 2009, from 12:00 p.m. until 8:00 p.m.**

6. APPLICATION, (No Representation Needed) – Late File

Ribeiro Bros., LLC d/b/a Pour Farm Tavern & Grille, Craig Ribeiro, Manager who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘1ST Anniversary Party’ to be held in ‘**Wing’s Court**’, located off Union Street; and to be held on **Saturday, August 15, 2009, from 2:00 p.m. until 8:00 p.m.**

7. APPLICATION, (No Representation Needed)

Cardoza’s Wine & Spirits, Inc., Erik Kowalski, Applicant (For) who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Wedding Reception’ to be held at the **Rotch-Jones-Duff House**, located at **396 County Street**; and to be held on **Saturday, July 11, 2009, from 5:00 p.m. until 11:00 p.m.**

8. APPLICATION, (No Representation Needed)

Buttonwood Park Zoological Society, Irene Avilla, Representative, who is requesting approval of an application for a

Special One Day All Alcoholic Beverages License for a 'Fundraiser/Gala for the Zoo', to be held at **Buttonwood Park Zoo** – Under a Tent; and to be held on **Friday, July 17, 2009, from 7:00 p.m. until 11:00 p.m.**

9. APPLICATION, (No Representation Needed)

Low Tide Yacht Club, Robert Gauvin, Director, who is requesting approval of an application for a **Special One Day Wine & Malt (Only) Beverages License** for a 'Fundraiser', to be held at **Fort Taber Park**; and to be held on **Saturday, July 25, 2009, from 5:00 p.m. until 10:00 p.m.**

10. APPLICATION, (No Representation Needed)

Libads Bar & Grille, LLC, Jessica DeMelo, Manager, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/Memorial Bike Run – N. B. Crisis Center', to be held **in the street**, located in front of **578 Brock Avenue**; and to be held on **Sunday, July 26, 2009, from 12:00 p.m. until 8:00 p.m.**

11. APPLICATION, (No Representation Needed)

Club Sports Madeirense, Inc., Serafim J. Correia, Treasurer requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a 'Fundraiser' to be held in the 'Club – Parking Lot', located at **1626 Acushnet Avenue**; and to be held **Thursday & Friday, July 30 & July 31, 2009 from 6:00 p.m. until 11:45 p.m. and Saturday & Sunday, August 2 & 3, 2009 from 12:00 p.m. until 11:45 p.m.**

Minutes of 06/29/09

PRESENT: *Richard Fernandes & John Fernandes representing the Club; Chief Teachman, along with Capt. Steven Vicente, Liaison to the Lic. Board and Lt. Scott Sylvia, Liaison to the Feast Committee*

Mr. (John) Fernandes stated that he sent his staff to the T.I.P.S. certification class, which was held for the feast volunteers, so that they would be aware of what to look for in checking I.D.'s, and with the service of alcohol; otherwise than that, they **would be applying** for a special license for the outside area behind the Club, with the same hours and procedures in place, as they have in the past, as stated below.

- **Will Apply for a Special License for Four (4) Days** with the following hours: Thurs. & Fri. – 6:00 P.M. – 11:45 P.M. Sat. & Sun. 1:00 P.M. – 11:45 P.M. to be used in 'Club' Parking Lot.
- **All Alcohol Must Be Consumed** within the parking lot and no alcohol should be allowed on the premises and no alcohol should be allowed off the premises.
- **'Club Security'** will be provided to insure **all Rules & Regulations** with regard to the consumption of alcohol will be enforced.

12. APPLICATION, (No Representation Needed)

Panthers Athletic and Social Club, Inc. Steven McMullen, President, requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a "Fundraiser" to be held in the **Club – Parking Lot**, located at **43 Madeira Avenue**; and to be held **Thursday & Friday, July 30 & July 31, 2009 from 6:00 p.m. until 11:45 p.m. and Saturday & Sunday, August 1 & 2, 2009 from 12:00 p.m. until 11:45 p.m.**

Minutes of 06/23/08 Meeting

Minutes of 06/29/09

PRESENT: *Richard Baker, Manager along with Russell Cunha, representing the Club; Chief Teachman, along with Capt. Steven Vicente, Liaison to the Lic. Board and Lt. Scott Sylvia, Liaison to the Feast Committee*

Mr. Baker also stated that his staff was sent to the T.I.P.S. certification class, which was held for the feast volunteers, so that they would be aware of what to look for in checking I.D.'s, and with the service of alcohol; otherwise than that, they **would be applying** for a special license for the parking lot area next to the Club, with the same hours and procedures in place, as they have in the past, as stated below, and that they were aware that alcohol is not to be allowed out of or into the club, and that they would once again have security at all entrances/exits.

- **Will Apply for a Special License for Four (4) Days** with the following hours: Thurs. & Fri. – 6:00 p.m. – 11:45 p.m. Sat. & Sun. 12:00 p.m. – 11:45 p.m. to be used in 'Club' Parking Lot.
- **All Alcohol Must Be Consumed** within the parking lot and no alcohol should be allowed on the premises and no alcohol should be allowed off the premises.
- **Signs Must Be Posted** stating that **'No Alcohol'** is allowed in or out of the premises.
- **Barrels** will be set up at all exits to help enforce alcohol **from leaving** certain points.
- **'Club Security'** will be provided to insure **all Rules & Regulations** regarding the consumption of alcohol will be enforced; Security persons working this event will be supplied with 'Blue Event Shirts' for easier recognition.

13. APPLICATION, (No Representation Needed)

Old Dartmouth Historical Society, Inc. Karen Allen, Event Coordinator, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/Over the Top', which will be held at the **N.B. Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Saturday, August 1, 2009, from 7:00 p.m. until 11:00 p.m.**

14. APPLICATION, (No Representation Needed)

Immigrants' Assistance Center, Inc., Helena S. Martins, Executive Director, who is requesting approval of an application for a **Special One Day Wine & Malt Only Alcoholic Beverages License** for a 'Fundraiser' to be held at the **Museum of Madeira Heritage**, located at **1 Funchal Place**; and to be held on **Thursday Aug. 6, 2009, from 7:00 p.m. until 10:00 p.m.**

15. APPLICATION, (No Representation Needed)

Society of Senhor Da Pedra, Albert A. Barbosa, Representative requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a 'Fundraiser/ A Feast of Senhor Da Pedra' to be held on the **Madeira Field – Stands 1 & 2**, located on **Madeira Avenue**; and to be held on **Friday, August 14, 2009 from 6:00 p.m. until 11:30 p.m., Saturday, August 15, 2009 from 6:00 p.m. until 11:45 p.m., and Sunday, August 16, 2009 from 2:00 p.m. until 11:00 p.m.**

16. APPLICATION, (No Representation Needed)

Knucklehead's, LLC d/b/a Knucklehead's Restaurant, John Stone Manager, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/ Robbie Thatcher Memorial' to be held in the **Knucklehead's - Parking Lot,** located at **85 MacArthur Drive**; and to be held on **Sunday, August 16, 2009, from 11:00 a.m. until 11:45 p.m.**

17. APPLICATION, (No Representation Needed)

Old Dartmouth Historical Society, Karen Allen, Event Coordinator, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Business After Hours 'at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Friday, August 28, 2009, from 6:00 p.m. until 8:00 p.m.**

18. APPLICATION, (No Representation Needed)

New Bedford Whaling Museum, April Leblanc, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Wedding Reception' at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Saturday, September 5, 2009, from 6:00 p.m. until 11:00 p.m.**

19. APPLICATION, (No Representation Needed)

Downtown New Bedford, Inc., Diane Nichols, Executive Director requesting approval of an application for a **Special One Day Wine & Malt (Only) Beverages License** for a 'Fundraiser/A Chowder Festival' to be held at **Custom House Square**; and to be held on **Sunday, September 13, 2009, from 12:00 pm. until 4:30 p.m.**

20. APPLICATION,

N. B. Jewish Convalescent Home, Ruth Glicksman, Representative requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/Cocktail Hour & Dinner' to be held at the **Tifereth Israel Synagogue**, located at **200 Hawthorn Street**; and to be held on **Saturday, September 13, 2009, from 5:30 pm. until 10:00 p.m.**

21. APPLICATION, (No Representation Needed)

W.H.A.L.E, Diane M. Brodeur, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Alcoholic Beverages License** for a 'Fundraiser/ Wine festival & Auction 'to be held at **Custom House Square**; and to be held on **Friday, September 18, 2009, from 5:30 p.m. until 9:00 p.m.**

22. APPLICATION, (No Representation Needed)

Old Dartmouth Historical Society, Karen Allen, Event Coordinator, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Business After Hours 'at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Friday, September 25, 2009, from 6:00 p.m. until 8:00 p.m.**

23. APPLICATION, (No Representation Needed)

Old Dartmouth Historical Society, Karen Allen, Event Coordinator, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Business After Hours 'at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Friday, October 30, 2009, from 6:00 p.m. until 8:00 p.m.**

24. APPLICATION, - Tr. # 039 - (Plot # 46--152)

Veterans Memorial Foundation, Inc., 561 Purchase Street is requesting the approval of **Kim M. Watkins**, who resides at **199 Purchase Street, New Bedford, MA** as their **new manager**.

25. APPLICATION, Trans. #202 – (Plot # 92--267) – No Representation Required

MMRB Corp., Inc. d/b/a Costa's Sunoco Mini-Mart, Golam B. Chowdhury, President, who is requesting a **Change of Officers, Directors, and the Addition of New Stockholders** of the **Annual Retail Package Store Wine & Malt Only Alcoholic Beverages License**; and the acceptance of Badiru Jaman's resignation as Sole-Director. The New Officers, Directors, and Stockholders are as follows:

Rezbul Chowdhury is President and Co- Shareholder (2500), Golam B. Chowdhury is Treasurer, Clerk, Co-Director, and Co-Shareholder (2500), Shammi Haider is a Co-Director and Co-Shareholder (2500), and Murshed Salam is a Co-Director and Co-Shareholder (2500); **Golam B. Chowdhury** will remain as the **Manager**. Premises will remain the same at **397 Sawyer Street**.

Application has been advertised

26. APPLICATION, Trans. #083 – (Plot # 53-198-A)

Riccardi's Restaurant, Inc., Michael A. Riccardi, President, 901 Hathaway Road, who is petitioning to **Transfer a Common Victualler (Restaurant) Wine & Malt Only Alcoholic Beverages License** to **Pi-Zans, Inc., Jason P. Lanagan** is President, Co-Director, Co-Shareholder (100) and the **Proposed Manager**; Howard L. Mallows, IV is the Treasurer, Co-Director, and a Co-Shareholder (100); and John T. Mello is the Clerk, Co-Director, and a Co-Shareholder (100). Upon completion of the renovations, the proposed new licensed premises will consist of an area approximately 918 sq ft on the first floor of a three story building, which includes one (1) dining room with table seating for approximately 52 patrons, an open pizza kitchen with stock area, which has a food service counter, and two (2) handicapped restrooms. There is one entrance/exit on the front of the building onto Union Street, with additional exit in the rear of building, and one handicapped accessible entrance/exit on the west side of the building. Premise is located on the north side of Union Street between Front and Water Streets and is numbered **29 Union St.**

Final approval will require a **'Certificate of Inspection'** from the Building Department, a **'Food Permit'** from the Health Department, and a signed **'Fire & Building Certificate'** with regard to **Chapter 304 Fire Acts Compliance**.

Application has been advertised; Abutters have been notified

27. APPLICATION, Trans. #081 – (Plot # 94—47)

Hathaway Road, Inc. d/b/a Rosie's, Michael A. Riccardi, President, 380 Hathaway Road, who is petitioning to **Transfer a Common Victualler (Restaurant) All Alcoholic Beverages License** to **Riccardi's Restaurant, Inc., Michael A. Riccardi** is President, Treasurer, Clerk, Sole-Director, Sole Stockholder (100), and **Proposed Manager**. The proposed new licensed premises will consist of three (3) rooms for dining, two (2) restrooms, and a separate kitchen and storage area on the first floor of a one story building; alcohol will be stored in the stockroom and attic, and will be served from the kitchen area. The premise has two (2) entrances/exits in the front of the building, along with one emergency exit at the rear of the main dining room, and a second through the kitchen area. Premise is situated on the north side of Hathaway Road between Pine Ridge Street and the Dartmouth Town Line, and is numbered **901 Hathaway Road**.

Application has been advertised; Abutters have been notified

28. APPLICATION, Trans. #219 – (Plot # 94--47)

Gulf Resources, Inc. which is petitioning for a **New Annual Retail Package Store Wine and Malt Beverages License** with John P. Carrigg as President and Co-Shareholder (500 Shares); and **Richard E. Carrigg** is Treasurer, Sole Director, Co-Shareholder (500 Shares) and the **Proposed Manager**. Upon completion of the renovations, the convenience store will consist of one building approximately 3,800 sq. ft, which would include three rooms, one that would function as a convenience store, which would include a joint venture area (Coffee Franchise) and a second as a rear storage room. The third room would be approximately 672 sq. ft. and would be used solely for the storage, display, and sale of alcohol; the room would include coolers for the beer & wine; and it would be contiguous to the convenience store portion of the building, and would share an open cash register area; and would have a separate entrance/exit in the front of the building, and a rear exit into the rear common storage area, which includes an office and a rear exit out of the back of the building. The entire premises would have a double entrance/exit in the front of the building into the convenience store, along with a separate front entrance/exit into the portion of the building, which is being proposed for alcohol use only; along with two additional exits in the rear of the building with one being accessible by the room being proposed for alcohol use only; and the premises would also have a drive through area, for use in the area designated as a joint venture area. The premises is situated on the south side of Hathaway Road, and numbered **380 Hathaway Road**.

Final approval will require a **'Certificate of Inspection'** from the Building Department and a **'Food Permit'** from the Health Department.

Application has been advertised; Abutters have been notified

Tabled at 06/29/09 Meeting

29. APPLICATION, Trans. #77 – (Plot # 53--195)

The Pequod, Inc. d/b/a Rose Alley Ale House, Jason P. Lannigan, President, is requesting permission to **Change the Description of the Common Victualler All Alcoholic Beverages** licensed premises to include an outdoor patio area., approximately 47 sq. ft. X 11 sq. ft., which upon completion would include approximately 12 tables to seat 48 patrons for dining, and the service of alcohol, **between the hours of 12:00 p.m. and 9:00 p.m., Monday thru Sunday.** The area would be enclosed with a cast iron fence, which would be surrounded with planters, and would include an outside service station for the service of alcohol.

The outside patio area would be contiguous to the North Side of the Building, and would have an entrance/exit into the main dining room on the west side of the building with an additional entrance/exit that leads onto Rose Alley, along with an additional entrance/exit onto Front Street, which is situated on the northwest corner of Front Street and Rose Alley, and numbered **94 Front Street.**

Upon completion of the renovations, final approval will be required from the Building Department and Health Department.

Application has been advertised; Abutters have been notified

Minutes of 06/29/09 Meeting

VOTED: The vote to table the application was made following a failed motion by Commissioner Ronald Frenette to deny the application as presented, since there was no second on the motion; at which point Commissioner Frenette was asked by Chairman Beauregard, if he would consider making a motion to table, to give the licensee an opportunity to meet once again with the neighbors to see if they could come to some sort of compromise regarding this matter. – **Unanimous**

30. Hearing: Joenat, Inc.

d/b/a Freitas Package Store

Jose D. Furtado, Manager

1295 Cove Road – 5th Offense

Your presence and that of **Steven Furtado, Clerk** is requested at a hearing for violating certain provisions of Massachusetts General Laws, Alcoholic Beverages Control Commission (ABCC) Regulations, and Licensing Board Rules and Regulations, while on probation (04/21/09 – 04/21/10), as reported by Alcoholic Beverage Control Commission as follows; this hearing is being held for this additional incident (5th offense) involving the illegal sale or delivery of alcohol to a minor, which occurred while on probation resulting from an earlier decision.

Violations: Massachusetts General Laws Chapter 138, sections 34-, 34b-, 34c-

It is illegal for anyone under the age of twenty-one years to purchase or be in possession of an alcoholic beverage; identification must be checked on the day of service.

Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulation No. 5-

Sale of alcoholic beverages, wine and malt beverages to persons under twenty-one years of age is prohibited.

Summary of Incident

The report states that on May 1, 2009, A.B.C.C. investigators observed the business operation of Joenat, Inc. The investigators observed a youthful looking male, d/o/b 05/18/89 (age 17), purchase a 30 pack of Budweiser Light Beer. The young man used a fake State of Maine driver's license to purchase the alcohol, a license which was of poor quality and whose font and security features did not resemble an actual Maine Driver's License.

Date and time of alleged violations: Friday, May 1, 2009 @ approximately 10:30 p.m.

Note: An ABCC Commission hearing was held on June 9, 2009 at which time the licensee stipulated to the facts that were contained in the Investigator's report dated May 1, 2009, and was found in violation. (See Correspondence)

31. Hearing: Jose A. Pinarretta

d/b/a Talho Portugues

123 Dartmouth Street

2nd Offense (04/30/08 – ABCC Sting)

Your presence is requested at a hearing to be held in this office to determine whether you have violated certain provisions of Massachusetts General Laws, the Alcoholic Beverages Control Commission (ABCC) Regulations, and Licensing Board Rules and Regulations as reported by City of New Bedford Police Department Incident Report as

follows:

Violations: Massachusetts General Laws Chapter 138, sections 34, 34b, 34c-

It is illegal for anyone under the age of twenty-one years to purchase or be in possession of an alcoholic beverage; identification must be checked on the day of service.

Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulation No. 5-

Sale of alcoholic beverages, wine and malt beverages to persons under twenty-one years of age is prohibited.

Summary of Incident

Police Department Incident Report states that while conducting undercover stings of several liquor establishments in the New Bedford area, an underage Police Cadet in an undercover capacity posing as a customer, purchased alcohol from a male clerk later identified as **Jose Pinarretta**, who was later informed that male allegedly just sold alcohol to a minor.

Date of alleged violations: Sunday, May 31, 2009

32. Hearing: DD & Gil, Inc. d/b/a Finest Liquors

Malkit S. Gill, Manager

889 Ashley Boulevard

Your presence is requested at a hearing for failing to comply with this Board's 04/13/09 decision. **(Due 06/21/09)** Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No. 5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch. 138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday July 24, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

33. Hearing: Casa Do Benfica No. 27, Inc.

Francisco M. Vala, Manager

1484 Acushnet Avenue

Your presence is requested at a hearing for failing to comply with this Board's 04/13/09 decision. **(Due 06/21/09)** Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No. 5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch. 138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday July 24, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

07/24/09 – T.I.P.S. Certifications were submitted.

34. Hearing: Club Recordacoes DePortugal, Inc.

Ezelino Silva Quadros, Manager

249-253 Coggeshall Street

Your presence is requested at a hearing for failing to comply with this Board's 04/13/09 decision. **(Due 06/21/09)** Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No. 5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch. 138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday July 24, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

35. Hearing: Portuguese American Athletic Club of Greater N.B., Inc

Arlindo Moura, Manager

56 Holly Street

Your presence is requested at a hearing for failing to comply with this Board's 04/13/09 decision. **(Due 06/21/09)** Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No. 5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch. 138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday July 24, 2009**, you will not be required to attend this hearing; **but be advised, if you fail to comply by this date, you are required to appear before the Board as notified above for a hearing, which may result in the suspension of your license.**

Tabled at 06/29/09 Meeting

36. Hearing: 1846 Bar & Grille, Inc.

Omar J. Lawrence, Manager

1846 Purchase Street

Your presence is requested at a hearing for failing to comply with this Board's 03/09/09 decision. **(Due 05/11/09)** Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No. 5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch. 138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday July 24, 2009**, you will not be required to attend this hearing.

Please be advised, if you fail to comply by this date or you fail to appear once again before the Board as notified above for a hearing, your license will be immediately suspended until such a time this matter is resolved.

Minutes of 06/29/09 Meeting

Present: Licensee Did Not Appear As Requested

Voted: Commissioner Frenette made a motion to table the matter to the Board's next meeting based on the licensee's failure to appear as requested – **Unanimous**

Tabled at 06/29/09 Meeting

37. Hearing: Nabih Moujabber d/b/a

Lebanese Kitchen,

1487 - 1489 Purchase Street

Your presence is requested at a hearing for failing to comply with this Board's 03/09/09 decision. **(Due 05/11/09)** Following the hearing held on Monday evening, **March 9, 2009**, on complaints reported to this Board by the New Bedford Police Department of violations of Massachusetts General Laws, Chapter 138, sec. 34, 34b, 34c-, Alcoholic Beverages Control Commission Regulation 204CMR2.05(2) and Licensing Board Regulation No.5, this Board found you in violation of ABCC Reg. 204 CMR 2.05 (2)-Permitting an illegality on the licensed premises, to wit: Ch.138 §34- Sale or delivery of an alcoholic beverage to a person under 21 years of age (Underage Cadet – Sting); and as part of our decision, **you were required to have all current and new employees T.I.P.S. Certified, with a list of all your current employees and proof of their certifications (copy of certification cards) submitted together to the Office of the Licensing Board, within Forty - Five (45) days of receipt of notice, which as of this date, has not been complied with.**

You will be given this one last opportunity to comply with this decision, if you file all the required documents **by Friday July 24, 2009**, you will not be required to attend this hearing.

Please be advised, if you fail to comply by this date or you fail to appear once again before the Board as notified above for a hearing, your license will be immediately suspended until such a time this matter is resolved.

Minutes of 06/29/09 Meeting

Present: Licensee Did Not Appear As Requested

Voted: Commissioner Frenette made a motion to table the matter to the Board's next meeting based on the licensee's failure to appear as requested – **Unanimous**

07/21/09 – T.I.P.S Certifications were submitted.

- **FOR REVIEW,**

A request from Chairman Beauregard, that the Board review its Liquor License regulation (# 15) regarding open doors, which states that "All Licensed liquor establishments shall have their doors and exits closed at all times during business hours, namely from opening time to closing time"; and how it relates to the new open air dining areas, such as the one that 'Cork' currently has and as the Catwalk Bar & Grill previously had; and like those that are found in such cities as Providence and Boston; and in doing so, that the Board with the assistance of Atty. Markey, clarify and possibly amend the regulation to address this issue of open store front dining.

- **CORRESPONDENCE,**

From: Brian Costa

To: New Bedford Visions Realty (Rose Alley Ale House)

Re: 94 Front Street - 1:00 a.m. Closing.

Dated 07/16/09

Copy to Licensing Board

Please be advised that according to Appeal # 3870, 94 Front Street (Rose Alley Ale House) should be closing at 1:00 a.m. Staying open after 1:00 a.m. would be in violation of New Bedford Zoning Section 5000 (Administration and Procedures and you could be subject to fines under New Bedford Zoning Section 5130, Penalties.

From: Eddie J. Jenkins, Chairman, for the ABCC

Dated – 05/05/09

Received – 05/07/09

Re: Joenat, Inc. d/b/a Freitas Package Store

1295 Cove Road

Re: Hearing Date – Tuesday, June 9, 2009 @10:45 a.m. A hearing will be held by the Commission to determine whether the above referenced licensee violated certain provisions of M.G.L.'s or Alcoholic Beverages Control Commission Regulations as follows: **Ch. 138, sec. 34 – sale or Delivery of an alcoholic beverage to a person under 21 years of age (1 count).**

Date & Time of Alleged Violations: Friday, May 1, 2009 at approximately 10:30 p.m.

Decision: Administrative review of file indicated that this was the first violation by the licensee in 13 years of ownership. The Commission finds that the licensee is in violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: Ch. 138 sec. 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one years of age and, therefore, **suspends the license for 4 days of which 4 days will be held in abeyance for a period of two years provided no further**

violations of Ch. 138 or Commission Regulations occur.

WRITTEN MOTION: In City Council, July 16, 2009

“LATE FILE”

Received 07/24/09

On behalf of **Nucleo Sportinguista Club**, requesting that a **HOME RULE PETITION** be approved by the City Council and Mayor, so that it may be submitted to Representative Antonio F.D. Cabral for Presentation and approval at the State Level: said Home Rule Petition will **AMEND** the original Petition in Chapter 451 of the Acts of 2006, by striking out the club's previous location of 6 Hathaway Street **and inserting their new location of 1561-1563 Acushnet Avenue.**

IN CITY COUNCIL, July 16, 2009

ADOPTED

Presented to the Mayor for approval July 20, 2009

Approved on July 24, 2009

Rita D. Arruda, City Clerk

Rita D. Arruda, City Clerk

Scott W. Lang, Mayor

• **REVIEW POLICE DEPARTMENT INCIDENT REPORTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Freddie's Café	09-9732 – OF	06/28/09	A & B (Fight); Serving to Intoxication (Approx. Time of Incident - 12:54 a.m.)
2. 'Cork'	09-9969 – OF	07/04/09	Open Door Violation (Approx. Time of Incident - 12:21 a.m.)
3. Regal Beagle	09-9977 – OF	07/04/09	A & B W/Dangerous Weapon (Stabbing) (Approx. Time of Incident - 2:21 a.m.)

• **'Clubs' (Informational Only)**

On **June 17, 2009**, a letter was sent by Atty. John A. Markey, Jr. Asst. City Solicitor to William A. Kelly, Jr., General Legal Counsel, ABCC, seeking clarification regarding the following issues regarding liquor establishments that are issued Non-Profit Club licenses:

1. If club members serve as bartenders, should they be listed on the Club Compensation Forms?
2. Are clubs allowed to place a club member (or other person) of their choosing behind the bar without any formal training?
3. May clubs advertise the sale of food and drink in newspapers, magazines, and brochures sent to the general public?
4. May clubs rent out their facility (halls) to non-members for non-club special events?
5. Does the licensing Board have the authority to request the financial (and other business) records of a Non-Profit Club?
6. May the Licensing Board request that each club submit an annual financial statement?

Received 06/24/09 – Written response from William A. Kelly, Jr., Legal Counsel for the Alcoholic Beverages Control Commission. (Copy is on file, and is available upon request)

• **COMPLAINTS RECEIVED:**

- **07/07/09 – Vieira's Café (Claudio's), 1708 Acushnet Avenue** – 'Parent Complaint' that an underage family member was being served alcohol along with his friends; and that said minor came home intoxicated; and that a

few days later he was once again found inside the establishment consuming alcohol by a family member.

Action Taken: 07/07/09 – Referred matter to Capt. Vicente for follow-up investigation by the Police Department.

- **NEXT TWO (2) MEETING DATES:** August 24th & September 28th
- **MEETING ADJOURNED:**